

NOTICE TO CJA PANEL ATTORNEYS REGARDING AVAILABILITY OF INVESTIGATIVE, EXPERT AND OTHER SERVICES

All attorneys appointed to provide representation under the Criminal Justice Act, 18 U.S.C. § 3006A, may request, under subsection (e) of the Act, authorization to obtain investigative, expert and other services necessary for adequate representation, to be paid from funds appropriated for the administration of the Act.

In addition to investigators, psychiatrists, psychologists and reporters, services other than counsel may include, but are not necessarily limited, to interpreters, neurologists, and laboratory experts in the areas of ballistics, fingerprinting, handwriting, etc.

Requests for authority to obtain “subsection (e)” services should be made to the presiding judge or magistrate judge (see cautionary note below). In order to prevent the possibility that an open hearing concerning a request for subsection (e) services will cause a defendant to reveal his or her defense, these requests should be made by *ex parte* application. Guidelines promulgated by the United States Judicial Conference, *Guidelines for the Administration of the Criminal Justice Act*, Volume VII, *Guide to Judiciary Policies and Procedures (CJA Guidelines)*, provide that the applications shall be heard *in camera* and not be revealed without the consent of the defendant. The *Guidelines* further state that such applications shall be placed under seal until the final disposition of the case in the trial court, subject to final order of the court.

CAUTIONARY NOTE

There are, however, limitations that apply to the obtaining of these services. **PRIOR AUTHORIZATION SHOULD BE SECURED** from the presiding judicial officer for all subsection (e) services where the cost (exclusive of reimbursement for expenses) will exceed \$300. In addition to prior authorization, once the services have been provided, the claims for compensation must be approved by the presiding judicial officer. Failure to obtain prior authorization will result in the disallowance of any amount claimed for compensation in excess of \$300, unless the presiding judicial officer, in the interest of justice, finds that timely procurement of necessary services could not await prior authorization. Except in death penalty proceedings, claims for compensation in excess of \$1,000 (excluding reimbursement for expenses) may be paid only if the presiding judicial officer certifies that payment in excess of the amount is necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit (or the active circuit judge to whom the chief judge has delegated excess compensation approval authority). Payment for subsection (e) services should be claimed directly by the service provider on the CJA Form 21, “Authorization and Voucher for Expert and Other Services,” or, in death penalty proceedings, on the CJA Form 31, “Death Penalty Proceedings: *Ex Parte* Request for Authorization and Voucher for Expert and Other Services.”

Counsel should review both the Criminal Justice Act and the *CJA Guidelines*. A copy of the *CJA Guidelines* is located in the office of the Clerk of Court.